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GUARDSMARK, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JOHNNY MCFARLAND, on behalf of
himself and others similarly situated,

Plaintiff,

vs.

GUARDSMARK, LLC, and Does 1
through 50, inclusive,

Defendants.

CASE NO. CV 07-03953 PJH

**STIPULATED AND ~~PROPOSED~~
JUDGMENT**

Judge: Honorable Phyllis J. Hamilton

Judgment is hereby entered as follows:

1. The first cause of action in the First Amended Complaint (the operative complaint), i.e., Plaintiff's "double overtime" claim under California Labor Code section 1194, and any associated or derivative claims under Plaintiff's third and fourth causes of action in the First Amended Complaint, are dismissed without prejudice pursuant to Federal Rules of Civil Procedure, Rule 41.

2. Judgment is entered in favor of Defendant Guardsmark, LLC and against Plaintiff on Plaintiff's second cause of action in the First Amended Complaint (the operative complaint), i.e., Plaintiff's meal periods claims under the California Labor Code and associated Industrial Welfare Commission Welfare Orders, and the associated or derivative claims under Plaintiff's third and fourth causes of action in the First Amended Complaint, including without limitation Plaintiff's derivative overtime claim based on inclusion of meal period compensation, as provided by California Labor Code Section 226.7, in the calculation of regular rate of pay.

3. This judgment disposes of all claims in the First Amended Complaint.

4. By agreeing to the entry of this judgment, Plaintiff does not waive and has not waived his right to appeal the judgment and the associated judgment with respect to Plaintiff's second cause of action in the First Amended Complaint (the operative complaint), i.e., Plaintiff's meal period claims under the California Labor Code sections and the pertinent Industrial Welfare Commission Welfare Order, and the associated or derivative claims, including without limitation overtime wage regular rate of pay claims, under Plaintiff's third and fourth causes of action in the First Amended Complaint.

This document constitutes a judgment and a separate document for purposes of Federal Rules of Civil Procedure, Rule 58(a). The Clerk of Court is instructed to file this document in the record in this matter.

PURSUANT TO STIPULATION, IT IS SO ORDERED AND ADJUDGED.

8/25/08

The Honorable Phyllis J. Hamilton
United States District Court

